

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Murdy	Team: Squad #6	CCRB Case #: 201405096	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/21/2014 7:00 AM	Location of Incident: § 87(2)(b)	Precinct: 113	18 Mo. SOL 11/21/2015	EO SOL 11/21/2015	
Date/Time CV Reported Tue, 05/27/2014 9:47 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/27/2014 9:47 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. SGT Derrick Milligan	04735	918006	INT CIS
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Ferrari	22463	946984	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered and searched § 87(2)(b) in Queens.	
B. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b) and § 87(2)(b)	
C. SGT Derrick Milligan	Abuse: Sgt. Derrick Milligan failed to show a search warrant to § 87(2)(b)	
D. Officers	Abuse: Officers searched § 87(2)(b)'s car.	

Case Summary

On May 27, 2014, § 87(2)(b) filed this complaint by phone with the CCRB on behalf of herself, § 87(2)(b) and § 87(2)(b).

On May 21, 2014, at approximately 7:00 a.m., officers from the 113th Precinct executed a search warrant at a private home located at § 87(2)(b) in Queens (**Allegation A**). While the search warrant was being executed, § 87(2)(b) was handcuffed by officers in her room.

She looked out into the hallway and saw an officer, PO3, described as a white man, 5' 9" tall, balding, with a stocky build, wearing glasses, yell at § 87(2)(b) and § 87(2)(b) who were handcuffed on the ground. § 87(2)(b) specifically heard PO3 allegedly state to them, "You know what the fuck we are here for! We are going to start tearing shit up! I'm going to arrest your mother and sister if you don't show us where the shit is" (**Allegation B**).

§ 87(2)(b) repeatedly asked aloud to see a warrant, but PO3 allegedly said to her that he "did not have to show you shit" (**Allegation B**). PO3 then stated he would only show the warrant to § 87(2)(b). Sgt. Derrick Milligan entered the home following the search and failed to show the occupants the warrant, which was in his possession (**Allegation C**) (encl. 9f).

Following the search, § 87(2)(b) was informed by her neighbor, § 87(2)(b) that six officers searched § 87(2)(b)'s car (**Allegation D**). Approximately a half hour after the officers left the home, an officer returned to the house and hung the car keys on the mailbox (encl. 8d).

Mediation, Civil, and Criminal Histories

Given § 87(2)(b) arrest, this case is not suitable for mediation. An inquiry was filed with the NYC Comptroller's Office on April 1, 2015, to determine if any notice of claim was filed. To date, no response has been received. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

(encl. 17o and 17p).

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s second CCRB complaint. § 87(2)(b)
- This is § 87(2)(b)'s first CCRB complaint (encl. 3b).
- This is § 87(2)(b)'s first CCRB complaint (encl. 3c).
- Sgt. Derek Milligan has been a member of the NYPD for 18 years. He has 26 prior CCRB allegations against him, two of which were substantiated. In case #201115506, a force allegation was substantiated against Sgt. Milligan and he received command discipline. In case #201110512, a vehicle search allegation was substantiated against Sgt. Milligan and he received command discipline. Sgt. Milligan has one other open CCRB case, #201403796, which has an entry allegation (encl. 2a-b). § 87(2)(g)

Officer Identification

- **Allegation A - Abuse of Authority:** § 87(2)(g) [REDACTED]
[REDACTED]
- **Allegation B - Discourtesy:** § 87(2)(b) [REDACTED] described the officer who made discourteous statements as a white man, 5' 9" tall, balding, with a stocky build, wearing glasses (encl. 8). Possible subject officers were identified based on physical appearance from the search warrant pre-execution plan and a photo array with § 87(2)(b) [REDACTED] was conducted on January 16, 2015. She did not identify any potential subject officers (encl. 5b and 8g-k). PO Michael Ferrari was identified on the pre-execution plan and matched § 87(2)(b) [REDACTED] s above description as the potential subject officer who made the discourteous statements. However, according to PO Ferrari's testimony, he was re-assigned to side security and never entered the house (encl. 10e). § 87(2)(g) [REDACTED]
[REDACTED].
- **Allegation C - Abuse of Authority:** On the pre-execution plan, Sgt. Milligan is identified as the Entry Supervisor and acknowledged possessing what he thought was the only copy of the search warrant while being present at the scene. § 87(2)(g) [REDACTED]
[REDACTED]
- **Allegation D – Abuse of Authority:** § 87(2)(b) [REDACTED] s neighbor, § 87(2)(b) [REDACTED] described the officers who searched § 87(2)(b) [REDACTED] s car as six white men. She indicated that one of the officers was Italian, one was wearing a hat, and one was tall. However, she could not provide any addition details (encl. 7d). § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Findings and Recommendations

Allegations Not Pleaded

- **Abuse of Authority:** § 87(2)(b) [REDACTED] made a general request to see the warrant to all of the officers in her residence and PO3 responded by saying, "I don't have to show you shit" (encl. 8d). As per officer testimony, it was confirmed that PO Michels, the executing officer, also had a copy of the warrant, but never entered the residence. The Entry Supervisor, Sgt. Milligan, confirmed that he had what he thought was the only copy of the search warrant and was on the scene. § 87(2)(g) [REDACTED]
[REDACTED].
- **Force:** § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] stated that multiple officers pointed guns at them as they initially entered and went through the house. § 87(2)(g) [REDACTED]
[REDACTED].
- **Abuse of Authority:** § 87(2)(b) [REDACTED] claimed that as a result of the entry and search, her front door was damaged and that several items in § 87(2)(b) [REDACTED] room, including glass and trophies, were broken. § 87(2)(g) [REDACTED]
[REDACTED] (encl. 8d).

Allegation A – Abuse of Authority: Officers entered and searched § 87(2)(b) in Queens.

It is undisputed that a team of officers from the 113th Precinct entered and searched the private home located at § 87(2)(b) in Queens. The investigation obtained a copy of a valid search warrant, § 87(2)(b) granting permission for the officers to enter and search said location for firearms, associated paraphernalia, and narcotics (encl. 13a).

A search warrant issued by a New York City criminal court may be executed pursuant to its terms. New York State Criminal Procedure Law 690.20 (encl. 1f).

§ 87(2)(g)

Allegation B – Discourtesy: An officer spoke discourteously to § 87(2)(b) and § 87(2)(b)

According to § 87(2)(b) an officer, PO3, described as white man, 5’ 9”, balding, with a stocky build, wearing glasses, told § 87(2)(b) and § 87(2)(b) “You know what the fuck we are here for! We are going to start tearing shit up! I’m going to arrest your mother and sister if you don’t show us where the shit is” (encl. 8d). Additionally, PO3 told § 87(2)(b) and § 87(2)(b) “Shut the fuck up. You know why we’re fucking here. Don’t play fucking games with us” (encl. 6d). Later, while the family was handcuffed and waiting in the living room, § 87(2)(b) asked PO3 for the warrant. In response, PO3 told her, “We don’t have to show you shit” (encl. 8d). § 87(2)(b) did not provide a statement to the CCRB on the advice of his attorney, § 87(2)(b) (encl. 18m).

§ 87(2)(g)

From the 113th Precinct pre-execution plan for the search warrant, three officers were identified as possible subject officers based upon physical appearance: PO Michael Ferrari, PO Anthony Rizzo, and PO Matthew Lewis (encl. 15a). On January 16, 2015, a photo array involving photos of PO Rizzo and PO Lewis was shown to § 87(2)(b) who correctly identified PO Lewis as being present during the incident, but did not identify him as the one who made the discourteous statements. The officer from Lineup #42176 that § 87(2)(b) selected as the subject officer was a filler officer who was not present for the incident (encl. 5b, 8g-k). On Lineup #42177, § 87(2)(b) identified PO Lewis as being present for the incident, but did not identify him as the subject officer. Additionally, PO Rizzo and PO Lewis are identified on the pre-execution plan as side and rear security, respectively (encl. 15a).

PO Michael Ferrari was interviewed because he matched the description provided by § 87(2)(b) and is listed on the pre-execution plan as inside security. However, during his CCRB statement, PO Ferrari stated that during the tactical meeting he was reassigned to side security and never

entered the house at any point (encl. 10e). There are no other officers listed on the pre-execution plan that fit the description and have assignments that would place them inside of the house during the incident (15a).

§ 87(2)(g)

Allegation C – Abuse of Authority: Sgt. Derrick Milligan failed to show a search warrant to

§ 87(2)(b)

During his CCRB interview, Sgt. Milligan stated that as the Entry Supervisor, he was the only officer in possession of a copy of the search warrant during the search of § 87(2)(b)'s home (encl. 9c). In PO Michels' subsequent interview; he stated that he too was in possession of a copy of the warrant (encl. 11e). However, between Sgt. Milligan and PO Michels, only Sgt. Milligan entered the home and interacted with the occupants. PO Michels stated that he only performed front security, never stepped foot inside of the home, and did not interact with any civilians on that day (encl. 9c and 11e).

Upon entering the home, Sgt. Milligan stated he saw § 87(2)(b) and her entire family in handcuffs, sitting in the living room. Sgt. Milligan did not hear any member of the household request to see a copy of the warrant. However, at no point during the execution of the warrant did Sgt. Milligan show § 87(2)(b) or any other member of her family, a copy of the search warrant (encl. 9c and 9f). Sgt. Milligan thought that he was the only officer at the scene in possession of a copy of the search warrant. § 87(2)(b) confirmed that she saw a black officer enter her residence, which was identified by the investigation as Sgt. Milligan, and never testified that he presented a warrant (encl. 8d).

The member of the service executing the search warrant shall, when able to do so safely, show a copy of the search warrant to any of the occupants of the premises. NYPD Patrol Guide, Procedure 212-105 (encl. 1a-e).

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: Officers searched § 87(2)(b)'s car.

Following the entry into the house, § 87(2)(b) stated she saw six plainclothes officers search a blue sedan belonging to § 87(2)(b) (encl. 7e). § 87(2)(b) confirmed that her car was a

2012 blue Nissan Sentra (encl. 8d). However, § 87(2)(b) could only describe the officers as white men of various heights, with one looking Italian and another wearing a hat (encl. 7e). § 87(2)(b) sister, § 87(2)(b) was outside with her during the car search. She also stated that a search of the car happened, but could only say that the officers who went inside were a mix of white and black men (encl. 7a).

In his CCRB interview, Sgt. Milligan denied authorizing a search of any vehicle or seeing any officers search the vehicle. PO Ferrari and PO Michels both denied searching any vehicle or witnessing any other officer do so (encl. 9c, 10e, and 11e). The search warrant did authorize the search of any vehicle (encl. 13a).

§ 87(2)(g)

Pod: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date